IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7557 OF 2003

Mr.S.S. Kulkarni for the Petitioner.

Mr.S.V.Sadavarte for the Respondents Nos. 1 & 2.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 8TH JUNE,2005

P.C.:

Rule. Returnable forthwith. Heard finally by consent of parties.

1. This is the writ petition filed by the Defendant. The Defendant filed his written statement. After filing his written statement, he filed an application for amendment in the written statement. The nature of the amendment was that on the basis of the pleadings already made in the written statement the Defendant wanted to make a prayer

for a decree against the Plaintiff by way of counter claim. The trial court has rejected that application by the impugned order holding that the counter claim can be made only in the written statement and not by amending the written statement. The reason is clearly contrary to the settled law. Impugned order is, therefore, set aside. The application filed by the Defendant for amendment in the written statement at Exh.39 on the record of Regular Civil Suit No. 151 2001 is granted. The Plaintiff is permitted to carry out consequential amendments in the plaint.

Rule made absolute with no order as to costs.

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